

Notice of Allowability

Application No.

09/768,917

Examiner

Anne Marie S. Wehbe

Applicant(s)

VICARI ET AL.

Art Unit

1633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 7/28/06.
2. ☒ The allowed claim(s) is/are 21-24,27,29,31,33,35,36 and 69.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

Applicant's amendment and response filed on 7/28/06 has been entered. Claims 1-20, 25-26, 28, 30, 32, 34, and 37-68 are canceled. Claims 21-24, 27, 29, 31, 33, 35-36, and 69 are currently pending in the instant application.

The rejection of claims 21-24, 27, 29, 31, 33, 35-36, and 69 under 35 U.S.C. 103(a) as being unpatentable over EP 0 974 357 A1 (7/16/98), hereafter referred to as Caux et al., in view of WO 98/14573 (4/9/98), hereafter referred to as Luster et al., and Dieu-Nosjean et al. (1999) J. Leuk.Biol. Vol. 66, 252-262, is withdrawn in view of applicant's amendment to the claims which add the limitation that the MCP-4 chemokine protein is administered prior to the nucleic acid encoding an antigen. The claims as amended are now commensurate in scope with the evidence of "unexpected results" provided in the Declaration under 1.132 by Dr. Vicari, filed on 1/30/04.

Claims 21-24, 27, 29, 31, 33, 35-36, and 69 are thus considered free of the prior art of record and allowable at this time.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Grant Reed on 10/12/06.

The application has been amended as follows:

1. On page 7, line 15, the phrase -- (A+B) -- has been inserted after the number "4".
2. On page 7, line 31, the phrase -- (A+B) -- has been inserted after the number "9".
3. On page 8, line 1, the phrase -- (A+B) -- has been inserted after the number "11".
4. On page 8, line 3, the phrase -- (A+B) -- has been inserted after the number "12".

The following is an examiner's statement of reasons for allowance. The closest prior art is represented by Caux et al., EP 0 974 357 A1 (7/16/98), see the previous office actions for a detailed discussion of the teachings of Caux et al. as applied under 35 U.S.C. 103. However, the Declaration by Dr. Vicari under 37 CFR 1.132 demonstrates that the injection of hMCP-4 protein prior to the administration of nucleic acid encoding an antigen increases antigen specific IgG antibody generation, whereas prior injection of hMIP-3G does not. As such, the Vicari Declaration provides sufficient evidence for "unexpected results" in the enhancement of humoral immune responses after administration of MCP-4 protein followed by the administration of nucleic acid encoding antigen.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

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fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication from the examiner should be directed to Anne Marie S. Wehbé, Ph.D., whose telephone number is (571) 272-0737. If the examiner is not available, the examiner's supervisor, Dave Nguyen, can be reached at (571) 272-0731. For all official communications, **the new technology center fax number is (571) 273-8300**. Please note that all official communications and responses sent by fax must be directed to the technology center fax number. For informal, non-official communications only, the examiner's direct fax number is (571) 273-0737. For any inquiry of a general nature, please call (571) 272-0547.

The applicant can also consult the USPTO's Patent Application Information Retrieval system (PAIR) on the internet for patent application status and history information, and for electronic images of applications. For questions or problems related to PAIR, please call the USPTO Patent Electronic Business Center (Patent EBC) toll free at 1-866-217-9197. Representatives are available daily from 6am to midnight (EST). When calling please have your application serial number or patent number available. For all other customer support, please call the USPTO call center (UCC) at 1-800-786-9199.

Dr. A.M.S. Wehbé

ANNE M. WEHBE' PH.D
PRIMARY EXAMINER

